

**IN THE MATTER OF OMAR AHMED KHADR**

And the: *International Transfer of Offenders Act*

**September 28, 2012**

Omar Ahmed Khadr is a 26 year old Canadian citizen, first time offender, serving a sentence of eight years imprisonment at Joint Task Force Guantanamo Bay after having been convicted, pursuant to a guilty plea by him, of the following offences:

- Murder in violation of the law of war,
- Attempted murder in violation of the law of war,
- Conspiracy,
- Providing material support for terrorism, and,
- Spying.

Mr. Khadr's sentence started on October 31, 2010 and will expire on October 30, 2018.

Mr. Khadr has made application under the *International Transfer of Offenders Act* ('ITOA') to serve the remainder of his sentence in Canada. Pursuant to the *Treaty Between Canada and the United States of America on the Execution of Penal Sentences* the 'Sending State' must first approve the request for transfer before submitting the application to the 'Receiving State' for decision. Mr. Khadr's complete application for transfer was received from the United States on April 13, 2012, subject to a thirty day notification period to the US Congress which expired on May 17, 2012.

At the time of receipt, in April 2012, of Mr. Khadr's application Correctional Service of Canada (CSC) was advised by officials of the US government that CSC would be provided with a copy of the videotape of an interview of Mr. Khadr that was conducted by Dr. Michael Welner. Despite requests from Canadian officials over the next three months that document was not forthcoming and on July 19, 2012 I wrote to the Secretary of Defense of the United States, Leon Panetta, formally requesting that videos of interviews conducted by Dr. Welner and Dr. Hopewell, in addition to their unredacted reports, be provided to me in order to assist my deliberations. Those items were received by Canada on September 6<sup>th</sup>, 2012.

I have reviewed all of the documents in the file, including the videos and medical reports that were provided by the United States Government. Mr. Khadr's plea agreement was made pursuant to a lengthy agreed statement of facts. In summary he:

- Was captured on July 27, 2002 while participating in a four hour firefight with US military forces in the village of Ayub Kheyl, Afghanistan.
- During the course of that firefight he threw a grenade which killed Sergeant First Class Christopher Speer.
- Provided material support to Al Qaeda by receiving one month of one-on-one training in the use of rocket-propelled grenades, rifles, pistols, hand grenades and explosives.
- Received training in the conversion of land mines into IEDs.
- Between June 1, 2002 and July 27, 2002 he attempted to commit murder by converting land mines into improvised explosive devices (IEDs).
- Between June 1, 2002 and July 27, 2002 he attempted to commit murder by placing IEDs on the ground in areas in which he knew that US troops would be travelling.
- Engaged US Military and Coalition personnel with small arms fire, killing two members of the Afghan Militia force.
- Threw and/or fired grenades at nearby Coalition Forces, resulting in numerous injuries to them.
- Conducted surveillance of US Forces by clandestine means or while acting under false pretences with the intention of conveying the information collected to Al Qaeda or its associated forces.

Mr. Khadr's known accomplices during these activities include Usama bin Laden, Ayman al Zawahiri, Muhammad Atef, Saif al Adel, and, Ahmed Sa'id Khadr.

Mr. Khadr was born in Scarborough, Ontario and is a Canadian citizen. Despite the fact that he has spent a relatively short period of time in Canada, as a Canadian citizen, he has a right to enter Canada after the completion of his sentence. The question before me is whether Mr. Khadr should return to Canada to serve the balance of his sentence in Canada.

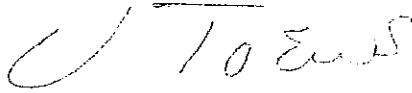
In determining whether the Correctional Service of Canada and the Parole Board of Canada can effectively administer Mr. Khadr's sentence the following issues cause me concern:

1. Mr. Khadr idealizes his father, Ahmed Sa'id Khadr, and appears to deny Ahmed Khadr's lengthy history of terrorist action and association with Al Qaeda.
2. Mr. Khadr's mother and older sister have openly applauded his crimes and terrorist activities.
3. Mr. Khadr has had very little contact with Canadian society and therefore will require substantial management in order to ensure safe reintegration into Canada.
4. Mr. Khadr has participated in terrorist training, military operations and meetings involving senior Al Qaeda leadership.

5. Mr. Khadr's experiences in Afghanistan, Pakistan and Guantanamo Bay and the degree to which they have radicalized him.

I am satisfied the Correctional Service of Canada and the Parole Board of Canada can administer Mr. Khadr's sentence in a manner which recognizes the serious nature of the crimes that he has committed, addresses the concerns that I have noted above, and ensures the safety of Canadians is protected through appropriate programming during incarceration, and, if parole is granted, through the imposition of robust conditions of supervision.

Mr. Khadr will serve the balance of his sentence in Canada.

A handwritten signature in black ink, appearing to read "Vic Toews". The signature is written in a cursive, flowing style with a large initial "V".

Vic Toews, P.C., Q.C., M.P.